

November 7, 2005

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404  
Seattle, Washington 98104  
Telephone (206) 296-4660  
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**REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL**

**SUBJECT:** King County Department of Transportation File No. **V-2494**  
Proposed Ordinance No. **2005-0326**

**STEPHEN & CLAUDIA HANDLEY**

Road Vacation Petition

**Location:** Portion of the north four (4) feet of Southeast 40th Street adjacent to Lot 1, Block 4, as recorded in Leawood Addition Plat

**Petitioner:** Stephen & Claudia Handley  
*represented by* **Stuart W. Carson**, Attorney  
O'Brien & Associates, Inc., P.S.  
175 Northeast Gilman Boulevard, Suite 100  
Issaquah, Washington 98027  
Telephone: (425) 707-6426

**King County:** Department of Transportation, Road Services Division  
*represented by* **Nicole Keller**  
201 South Jackson Street  
Seattle, Washington 98104-3856  
Telephone: (206) 296-3731  
Facsimile: (206) 296-0567

**SUMMARY OF RECOMMENDATIONS:**

Department's Preliminary:  
Department's Final:  
Examiner:

Approve road vacation  
Approve road vacation  
Approve road vacation

**DEPARTMENT'S REPORT:**

The Department of Transportation's written report to the King County Hearing Examiner for Item No. V-2494 was received by the Examiner on October 18, 2005.

PUBLIC HEARING:

After reviewing the Department of Transportation's Report and examining available information on file with the petition, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. V-2494 was opened by the Examiner at 1:45 p.m., Wednesday, October 19, 2005, in the Hearing Examiner's Conference Room, 400 Yesler Way, Seattle, WA 98104, and closed at 1:52 p.m., except that it was continued administratively for receipt of an affidavit of the required Notice of Hearing, which was received on October 26, 2005. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

## 1. General Information:

Road name and location:	Portion of Southeast 40 <sup>th</sup> Street
Right of way classification:	B Class
Area:	200 square feet
Compensation:	\$2,157.00

2. Except as provided below, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department of Transportation's report to the King County Hearing Examiner for the October 19, 2005, public hearing and the statement of facts contained in Proposed Ordinance No. 2005-0326. The Department's report will be attached to those copies of this report and recommendation that are submitted to the Metropolitan King County Council.
3. Maps showing the vicinity of the proposed vacation and the specific area to be vacated appear in the hearing record as exhibit nos. 5 and 6.
4. Vacation of the subject right-of-way would have no adverse effect on the provision of fire and emergency services to the subject property or surrounding area.

CONCLUSIONS:

1. The road subject to this petition is useless as part of the King County road system, and the public will be benefited by its vacation.
2. The Notice of Hearing on the report of the Department of Transportation was given as required by law, and a hearing on the report was conducted by the King County Hearing Examiner on behalf of the King County Council.
3. The compensation required by law to be paid as a condition precedent to the vacation of this road has been deposited with King County.
4. No easements are necessary to be retained for the construction, repair and maintenance of public utilities and services.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2005-0326 to vacate the subject road.

RECOMMENDED this 7th day of November, 2005.

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Peter T. Donahue, Deputy  
King County Hearing Examiner

TRANSMITTED this 7th day of November, 2005, to the following parties and interested persons:

Stuart Carson  
O'Brien & Assoc., Inc.  
175 NE Gilman Blvd., #100  
Issaquah WA 98027

Comcast  
Attn: Kermit Benson  
410 Valley Ave. NW, Bldg. C-  
Puyallup WA 98371

Don Dauphiny  
Qwest Communications  
1550 Newport Way NW  
Issaquah WA 98027

Mark Dewey  
City of Bellevue Utilities  
P.O. Box 90012  
Bellevue WA 98009-9012

Stephen & Claudia Handley  
3925 - 161st Ave. SE  
Bellevue WA 98006

Judy McCollum  
Puget Sound Energy  
411 - 108th Ave. NE  
Bellevue WA 98009-9734

Kim Claussen  
DDES/LUSD  
MS OAK-DE-0100

Neil DeGoojer  
DNRP/WLRD  
MS KSC-NR-0600

Sarah Gagnon  
DNRP - Wastewater Trtmt.  
MS KSC-NR-0503

Nancy Gordon  
KCDOT/D&C  
MS KSC-TR-0431

David Gualtieri  
KCDOT/CIP & Planning  
MS KSC-TR-0317

Denise Hauck  
KC Dept. of Exec. Svcs.  
MS ADM-ES-0500

Bill Hintz  
KC DOT, Rd. Maint.  
MS RSD-TR-0100

Nicole Keller  
KC DOT, Rd. Svcs. Div.  
MS KSC-TR-0231

Kris Langley  
DDES/LUSD  
MS OAK-DE-0100

Tom Lew  
KC DNRP/WLRD  
MS KSC-NR-0600

Paulette Norman  
KCDOT/RD SERV.  
MS KSC-TR-0231

Robert Nunnenkamp  
KC DNRP/Prog Dev.  
MS KSC-NR-0700

Lydia Reynolds-Jones  
KC DOT/RD SERV.  
MS KSC-TR-0231

Charlie Sundberg  
Bus. Rel. & Economic Dev.  
MS BOA-EX-2000

Kelly Whiting  
KC DOT, Rd. Svcs. Div.  
MS KSC-TR-0231

NOTICE OF RIGHT TO APPEAL  
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before* **November 21, 2005**. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before* **November 28, 2005**.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3<sup>rd</sup> Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty-one (21) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE OCTOBER 19, 2005, PUBLIC HEARING ON DEPARTMENT OF  
TRANSPORTATION FILE NO. V-2494.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Nicole Keller and Kelly Whiting, representing the Department.

The following Exhibits were offered and entered into the record:

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|---------------|--|
| Exhibit No. 1 | DOT report to the Hearing Examiner dated October 12, 2005 with 15 attachments  |
| Exhibit No. 2 | Petition transmittal letter dated December 9, 2003 to DOT from the Clerk of the Council received December 15, 2003   |
| Exhibit No. 3 | Letter of explanation dated December 8, 2003 and Petition for Vacation of a County Road, legal descriptions of Petitioner's properties, map of property to be vacated, and statutory warranty deed |
| Exhibit No. 4 | Copy of filing fee; check #1044 from petitioners   |
| Exhibit No. 5 | Vicinity map from Thomas Brothers, page 597  |
| Exhibit No. 6 | Plat map of Leawood Addition   |
| Exhibit No. 7 | Map depicting vacation area  |

- Exhibit No. 8 Letter from Stuart W. Carson, Attorney for the Handley's dated February 3, 2005 transmitting compensation check #19448
- Exhibit No. 9 Copy of compensation check and deposit receipt
- Exhibit No. 10 Letter from Paulette Norman to Handley's Attorney, Stuart W. Carson dated February 22, 2005 identifying DOT recommendation and requesting compensation
- Exhibit No. 11 Compensation worksheet
- Exhibit No. 12 Ordinance transmittal letter dated July 29, 2005 from King County Executive to Councilmember Larry Phillips
- Exhibit No. 13 Proposed Ordinance 2005-0326
- Exhibit No. 14 Fiscal Note
- Exhibit No. 15 Notice of Hearing
- Exhibit No. 16 Affidavit of Posting for Hearing
- Exhibit No. 17 Transmittal letter dated March 1, 2005 to Council providing recommendation of KCDOT and County Road Engineer
- Exhibit No. 18 Affidavit of Publication

PTD:gao  
V-2494 RPT